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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,244	05/11/2001	Russell F. Anderson	30-4356 Div 1 (4640)	8488

7590

12/30/2002

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EXAMINER

KILLOS, PAUL J

ART UNIT

PAPER NUMBER

1625

DATE MAILED: 12/30/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.



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DATE MAILED:

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☐ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), 30 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.             | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

1. ☐ Claims 9, 19-61 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims 1-8 and 10-18 have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☐ Claims \_\_\_\_\_ are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims 9, 19-61 are subject to restriction or election requirement.
7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

This is in response to the communication filed 07 May 2003.

The claims are 9 and 19-61.

In response to the restriction requirement applicants elected the invention of group III, claims 36-47. The restriction requirement not having been argued is considered to have been made without traverse.

Claims 9, 19-35 and 48-61 are withdrawn from consideration as being directed to non-elected subject matter.

#### STATEMENT OF STATUTORY BASIS, 35 U.S.C. 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

#### 102(b) ACTIVITY MORE THAN ONE-YEAR PRIOR TO FILING

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

#### REJECTION 35 U.S.C. 102(b) PATENT OR PUBLICATION

Claims 36, 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Revesz, M. et al, Acta Chimica Hungarica (1992) 129(2) 287-95.

The reference is directed to polymers that have the component as recited in claim 36 when R is  $R_1 - C_n H_m$ .

REJECTION 35 U.S.C. 112, 2<sup>ND</sup> PARAGRAPH, FAILURE TO PARTICULARLY POINT OUT AND DISTINCTLY CLAIM (INDEFINITE)

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Claim 37 IS rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### LACK OF ANTECEDENT BASIS IN THE CLAIMS

Claim 37 is contains the trademark/trade name bromine. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe line 1 of claim 37 and, accordingly, the identification/description is indefinite.

No provision is made in claim 36 (independent claim) for a bromine substituent.

Claims 38, 40-46 and 47 are objected to as being dependent on rejected claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul J Killos whose telephone number is 308-0135. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Rotman can be reached on 308-1701. The fax phone numbers for the

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organization where this application or proceeding is assigned are 308-4556 for regular communications and 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-1235.

Killos/LR  
June 9, 2003

  
PAUL J. KILLOS  
PRIMARY EXAMINER